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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ORACLE AMERICA, INC.,)
Plaintiff,)
vs.) No. CV 10-03561
GOOGLE, INC.,)
Defendant.)

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Videotaped Deposition of TIM LINDHOLM, taken
at 333 Twin Dolphin Drive, Redwood Shores,
California, commencing at 9:56 a.m., Wednesday,
September 7, 2011, before Ashley Soevyn,
CSR No. 12019.

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1 machine that will typically include some sort of
2 instruction set that is intended to be well, is
3 typically implemented as a software program.

4 This is I'm meaning to draw the
5 distinction with a concrete machine, a concrete
6 processor, such as, say, an Intel chip. An Intel
7 central processing unit chip will, itself, have a
8 set of instructions, but those instructions and the
9 other aspects of the design of that chip are
10 intended to be are typically intended to be
11 implemented in silicon

12 THE REPORTER: In what?

13 THE WITNESS: In silicon as hardware.

14 So a lot of there is a bit of a gray
15 area here in that it would be perfectly reasonable
16 for me to do a software implementation of an Intel
17 instruction set and to emulate the Intel instruction
18 set. In fact, various various companies have
19 done that sort of thing is my general understanding.

20 For instance, when Apple transitioned from
21 the Power PC platform to the Intel platform, I think
22 that they did an emulator for the Power PC platform
23 so that people who had old applications that were
24 compiled to the Power PC, could be run on the now
25 Intel based, new Macintoshes.

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1 THE WITNESS: When I joined Sun in 1994,
2 Java didn't exist. There was no language by no
3 language, no virtual machine named J a v a, or JVM.
4 The as is become public now, at that time at
5 that time Sun was working on a language that's
6 called Oak, and Oak had a virtual machine.

7 Over time, beginning shortly after I
8 joined, things happened in the project that had led
9 to the creation of Oak such that such that the
10 Oak project was basically canceled. But some of the
11 technology that was developed in the context of Oak
12 was repurposed for the World Wide Web and was
13 renamed Java.

14 So the Oak virtual machine, which predated
15 my presence at Sun, contained a large portion or
16 probably, arguably the majority of the Java Virtual
17 Machine design. But over the next series of
18 years and actually, continuing to the current
19 day, the Java Virtual Machine had continued to
20 evolve over time. But in particular, during the
21 time not long after I joined Sun, the Java Virtual
22 Machine was firmed up, fleshed out

23 Q. Mr. Lindholm, I don't like to interrupt the
24 witness, but and I appreciate your you're
25 extremely knowledgeable about this, but I would like

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1 So to get back to the start, a virtual
2 machine is an abstract machine typically meant to be
3 implemented in software versus in silicon or
4 hardware, like a processing processor specification
5 that is in silicon.

6 BY MR. NORTON:

7 Q. And you wanted to describe a virtual
8 machine generally, and then my question to you
9 previously had been could you tell me in two
10 sentences what a Java Virtual Machine is?

11 MS. ANDERSON: Objection, form.

12 THE WITNESS: Well, so the there have
13 been a number of there have been a number
14 versions of the Java Virtual Machine over time. But
15 generally speaking, a Java Virtual Machine refers to
16 a particular virtual machine architecture that was
17 specified by Sun and implemented has been
18 implemented by Sun and by others. But it's a
19 particular virtual machine design that has
20 particular features and particular properties.

21 BY MR. NORTON:

22 Q. And were you one of the contributors to the
23 original Java Virtual Machine?

24 MS. ANDERSON: Objection, form.

25 MR. LISI: Join.

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1 to focus on my questions particularly

2 A. Okay.

3 Q. since we do have a very limited amount
4 of time.

5 A. Okay, I'm sorry.

6 Q. And my question was just a "yes" or "no"
7 for now

8 A. Okay.

9 Q. which was, were you a contributor for
10 the original Java machine Virtual Machine, I
11 should say?

12 MS. ANDERSON: Objection, form.

13 MR. LISI: Join.

14 THE WITNESS: Well, so I can't give a crisp
15 "yes" or "no" in the context of what I was saying.
16 I was a contributor to the early, not the earliest,
17 but in the early days of Java, and the early Java
18 being brought to the public eye, I was a contributor
19 at that point.

20 BY MR. NORTON:

21 Q. And you are the coauthor of the book, "The
22 Java Virtual Machine Specifications"; is that
23 correct?

24 A. That's correct.

25 Q. And what is the purpose for which the Java

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4 (Pages 10 - 13)

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<p>1 Virtual Machine specification is used?</p> <p>2 MS. ANDERSON: Objection, form.</p> <p>3 MR. LISI: Join.</p> <p>4 THE WITNESS: Well, it's used for a number</p> <p>5 of purposes. It it was intended to be it was</p> <p>6 intended to be the definitive statement of what the</p> <p>7 Java Virtual Machine definitive definition of the</p> <p>8 Java Virtual Machine. It was also used by people</p> <p>9 who wanted to implement Java Virtual Machines or who</p> <p>10 wanted to certainly, in the early days, people</p> <p>11 were just very interested in Java technology. And a</p> <p>12 lot of people wanted to read the virtual machine</p> <p>13 specification just to understand how Java technology</p> <p>14 worked. So it had quite a number of intents, and</p> <p>15 I'm sure people use it for other purposes, too.</p> <p>16 Q. Your coauthor on the Java Virtual Machine</p> <p>17 Specification was Frank Yellin; is that correct?</p> <p>18 A. That's correct.</p> <p>19 Q. And Mr. Yellin is also employed by Google;</p> <p>20 is that correct?</p> <p>21 A. As far as I know, he was when I last talked</p> <p>22 to him.</p> <p>23 Q. You were a key contributor to the Java</p> <p>24 programming language, correct?</p> <p>25 MS. ANDERSON: Objection, form.</p> <p style="text-align: right;">Page 14</p>	<p>1 MR. NORTON: Let's mark our first exhibit</p> <p>2 of the day, which will be Plaintiff's Exhibit 524.</p> <p>3 I will hand that to you, Mr. Lindholm. I have</p> <p>4 copies for counsel.</p> <p>5 (Exhibit 524 marked for identification.)</p> <p>6 MS. ANDERSON: Thank you.</p> <p>7 BY MR. NORTON:</p> <p>8 Q. Mr. Lindholm, have you ever seen that</p> <p>9 before?</p> <p>10 A. Yes, I have.</p> <p>11 Q. Is that a website biography of you?</p> <p>12 A. I believe that it is.</p> <p>13 Q. Did you write it?</p> <p>14 A. I think that originally I did not write it.</p> <p>15 I might have commented on it, but -- well, I do not</p> <p>16 believe I originally wrote it.</p> <p>17 Q. But you did comment on it?</p> <p>18 A. I had seen it, yes.</p> <p>19 Q. Did you see it before it was published,</p> <p>20 that is, posted on the Internet?</p> <p>21 A. I don't remember. This was -- this was</p> <p>22 originally written quite some time ago.</p> <p>23 Q. And have you seen it on the Internet?</p> <p>24 A. Yes, I think I have.</p> <p>25 Q. Did you ask anybody to change anything in</p> <p style="text-align: right;">Page 16</p>
<p>1 MR. LISI: Join.</p> <p>2 THE WITNESS: I don't think I would call</p> <p>3 myself a key contributor to the Java programming</p> <p>4 language. I contributed some things, but there were</p> <p>5 certainly quite a few people who did much more than</p> <p>6 that I did. I was more focused on the virtual</p> <p>7 machine.</p> <p>8 BY MR. NORTON:</p> <p>9 Q. You were a key contributor to the Java</p> <p>10 Runtime, correct?</p> <p>11 MS. ANDERSON: Objection, form.</p> <p>12 MR. LISI: Join.</p> <p>13 THE WITNESS: The virtual machine is part</p> <p>14 of the Java Runtime, so so at least by that,</p> <p>15 yes.</p> <p>16 BY MR. NORTON:</p> <p>17 Q. And you were an original member of the Java</p> <p>18 technology project at Sun, correct?</p> <p>19 A. Well, yes, I'm not sure if in some official</p> <p>20 sense there was a Java technology project. Various</p> <p>21 people used various things to say that they were</p> <p>22 there at the beginning when Java, as it became known</p> <p>23 to the public, what was done. So, you know, I</p> <p>24 what that says is I was present I was in the team</p> <p>25 in '94, '95.</p> <p style="text-align: right;">Page 15</p>	<p>1 the website bio in Exhibit 524?</p> <p>2 A. I don't remember. I don't recall. I think</p> <p>3 that I think that there were I think that in</p> <p>4 the past, whether it was I think that in the past</p> <p>5 I have asked people to change I think I have</p> <p>6 asked something to be changed in here, but I don't</p> <p>7 really remember what or what the context of that</p> <p>8 was.</p> <p>9 Q. You'll see that in the second paragraph of</p> <p>10 the biography it states, "Prior to Google, Tim was</p> <p>11 an original member of the Java technology project at</p> <p>12 Sun Microsystems and a key contributor to the Java</p> <p>13 programming language and Runtime, both definition</p> <p>14 and implementation." Do you see that?</p> <p>15 A. I do see that.</p> <p>16 Q. That was part of the bio that you'd seen</p> <p>17 before?</p> <p>18 MS. ANDERSON: Objection, form.</p> <p>19 THE WITNESS: I don't know. This wasn't</p> <p>20 something that I've spent a lot of time worrying</p> <p>21 about. This is a small this was something that</p> <p>22 somebody else wanted to put up about me, and I</p> <p>23 said kind of said, "Okay."</p> <p>24 BY MR. NORTON:</p> <p>25 Q. You haven't changed it, have you?</p> <p style="text-align: right;">Page 17</p>

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1 A. I don't have access to this website to
2 change.
3 Q. Did you ask somebody to change that
4 sentence that I just read?
5 I don't remember. I think I had some
6 correspondence with this, but it wasn't but I
7 didn't really spend any time on this.
8 Q. Did you ask anyone to change the sentence
9 that I just read?
10 A. I don't remember doing so.

11 Q. Do you recall there was litigation between
12 Sun Microsystems and Microsoft?
13 A. Yes, I do.
14 Q. And you were deposed twice in the
15 litigation between Sun and Microsoft, correct?
16 A. I'm not sure if twice is the right number,
17 but I was deposed repeatedly. I know it was two or
18 more.
19 Q. So at least twice?
20 A. Yes, I think that's correct.
21 Q. Now, the first lawsuit was because
22 Microsoft tried to steal Java, correct?
23 MS. ANDERSON: Objection, form.
24 MR. LISI: Join.
25 THE WITNESS: I think the the complaint

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1 is what was what it was. I don't think it would
2 be I don't think it would be very legitimate for
3 me to try to paraphrase it. I'm an engineer, not a
4 lawyer.
5 BY MR. NORTON:

6 Q. Well, I'm not asking you to paraphrase the
7 complaint. I'm asking, did you ever tell anyone the
8 first Sun lawsuit was because Microsoft tried to
9 steal Java?
10 A. I don't recall telling anyone in exactly
11 those words, but I don't think that would be that
12 sounds like that would be a throwaway remark. It's
13 not a very precise statement.
14 MR. NORTON: Let's mark Exhibit 525, and
15 I'll hand a copy of that to you.
16 (Exhibit 525 marked for identification.)
17 BY MR. NORTON:
18 Q. Exhibit 525 is a November 13th, 2006 e mail
19 exchange between yourself and Matt Frantz; is that
20 correct?
21 MS. ANDERSON: I'll ask him to take a
22 moment to review the document.
23 THE WITNESS: Yeah, I think I better take a
24 look at this. Read it from the bottom, okay. Okay,
25 I've now read this. Your question?

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1 BY MR. NORTON:
2 Q. And DeWitt Clinton had forwarded the lower
3 part of the e mail exchange; is that right?
4 MS. ANDERSON: Objection, form.
5 MR. LISI: Join.
6 THE WITNESS: Well, I guess I don't know.
7 I would all I can say
8 BY MR. NORTON:
9 Q. I'll ask the question again.
10 A. Yeah.
11 Q. You've seen e mails before, right?
12 A. Yes.
13 Q. And you know that, as you just indicated,
14 that you read them from the bottom up, right, to
15 read them chronically?
16 A. Correct.
17 And in this particular e mail, part of the
18 thread is an e mail sent on "11/13/06 from Nicholas
19 Shupe." Do you see that?
20 A. Yes.
21 Q. And in that, he says, amongst other things,
22 "I also wonder what Microsoft's reaction to this
23 will be given their previous involvement with Java."
24 Do you see that?
25 A. I see that.

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1 Q. All right, good. And then you see that
2 someone named DeWitt Clinton responds to Mr. Shupe's
3 e mail. Do you see that?
4 A. Yes, I think I see that.
5 Q. Good, all right. And he responds to
6 Mr. Shupe's e mail by saying, "You mean like when
7 Sun sued us," paren. "I was at Microsoft working on
8 Visual J++ at the time. He stopped us from shipping
9 a nearly finished product." And he goes on from
10 there. Do you see that?
11 A. Yes, I do see that.
12 Q. And Mr. Frantz forwards the e mail to you
13 and says, "Did you see this thread in Java users?"
14 Do you see that?
15 A. I do see that.
16 Q. And you responded to Mr. Frantz, correct?
17 A. Yes, I think that is probably correct.
18 Q. And in your e mail to Mr. Frantz, amongst
19 other things, you state, "Of course, if they had
20 just done C# and Dot NET at the time, rather than
21 trying to steal Java, they might well have won."
22 Did you write that?
23 A. I don't remember specifically writing that,
24 but in the context of this document, it appears that
25 I did.

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6 (Pages 18 - 21)

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1 Q. Do you have any reason to believe you did
2 not write and send that e mail?
3 A. No, I think I probably did.
4 Q. And when you refer to "they" in Exhibit
5 525, "If they had just done C# and Dot NET at the
6 time, rather than trying to steal Java, they might
7 have won." "They" refers to Microsoft, correct?
8 A. I think that I think that must be
9 correct.
10 Q. And what you were referring to in your
11 e mail to Mr. Frantz was that when you said, "rather
12 than trying to steal Java," you were referring to
13 the events that were at issue in the Sun versus
14 Microsoft lawsuit, right?
15 MS. ANDERSON: Objection, form.
16 MR. LISI: Join.
17 THE WITNESS: I didn't actually understand
18 that question.
19 BY MR. NORTON:
20 Q. All right. I'll try again. In your
21 e mail, when you refer to Microsoft trying to steal
22 Java, what you were referring to were the events
23 that were at issue in the lawsuit between Sun and
24 Microsoft?
25 MS. ANDERSON: Objection, form.

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1 MR. LISI: Join.
2 THE WITNESS: I think that in a general
3 in some general sense, that was probably that was
4 in a general sense what I was referring to, but I
5 don't know specifically what that I don't know,
6 this is 2006, I'm not sure specifically what I was
7 referring to.
8 BY MR. NORTON:
9 Q. So sitting here today in 2011, can you tell
10 me what you meant by saying that "Microsoft was
11 trying to steal Java"?
12 A. Well, I think that that was a pithy way of
13 referring to what Microsoft was doing what
14 Microsoft's implementation of J++ and the content of
15 the Sun Microsoft litigation. This was a an
16 informal e mail. I think that that was I think
17 that was I think this was referring to the
18 lawsuit and Microsoft's actions prior to that.
19 Q. Why don't you tell me in your own words
20 what is it that you understood that Microsoft was
21 doing that, in this informal e mail of 2006, you
22 characterize was trying to steal Java?
23 A. Well, this this would is properly the
24 topic of the litigation. But my general
25 understanding was that they were trying to my

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1 general understanding is that Microsoft was making a
2 version of Java that that they were that they
3 were telling people was Sun's was Sun's Java,
4 was, you know, done done in the way people would
5 expect Java to be. But, in fact, that they were
6 consciously making minor variations to it that would
7 cause people's programs only to work on their
8 implementation.

9 But, again, the real content is that it was
10 a topic of that lawsuit that I was really pointing
11 to, as opposed to being specific about anything in
12 particular.
13 Q. But in that lawsuit, Sun objected to
14 Microsoft having a version of Java that was done in
15 a way that making variations would cause people's
16 programs to only work on Microsoft's implementation;
17 is that right?
18 A. So are you saying in the context of that
19 of the litigation?
20 Q. Correct.
21 A. I'm worrying here that I might be getting a
22 little bit close to stuff I know, at least
23 partially, under privileged things from my time at
24 Sun.
25 Q. Well, I'll address that on behalf of

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1 Oracle. As to Sun, I'm not asking you to divulge
2 anything that is privileged.
3 But if you have your own understanding of
4 what you said to me a moment ago well, let me
5 a moment ago you testified that one of the things at
6 issue in the lawsuit was that Microsoft had a
7 version of Java that was had to which they had
8 made variations such that programs would run only on
9 Microsoft's version of Java, did I get that much
10 correct?
11 A. It's close. I mean
12 Q. All right. Your original answer is your
13 answer. I'm just trying to orient it.
14 A. Understood, understood.
15 Q. All right. And then my question was, in
16 the lawsuit, was that one of things that Sun
17 objected to?
18 MR. LISI: I'm going to instruct you along
19 the lines of what counsel just said. If it does
20 if that answer implicates things that you learned
21 solely from Sun's counsel at the time, I instruct
22 you not to answer that. Not to get into privilege
23 areas. If you have other information, that's
24 fine.
25 THE WITNESS: I think I can reasonably say

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7 (Pages 22 - 25)

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<p>1 that there is a general understanding that that was 2 true. I have a more specific understanding, given 3 the role I played in that trial, but I don't want to 4 go there because that should be would be at least 5 partially, if not mostly, privileged topics. 6 BY MR. NORTON: 7 Q. You said you have more specific 8 information, but the general information you just 9 gave me, is that information true? 10 A. Could you restate what sorry. 11 Q. So you told me a moment ago that you could 12 give more specific you have a more specific 13 understanding, but that you were concerned that 14 might get into privilege issues. I don't want you 15 to get into privilege issues. I just want to know 16 that the answer that you gave me before you said you 17 have a more specific understanding is the answer 18 that you gave me before you said you have a more 19 specific answer a correct answer? 20 A. So maybe the right answer is I forgotten 21 what my answer was. Is it possible to get 22 Q. We'll stick with the answer we got. 23 A. Okay. Sorry, I just kind of got 24 confused. 25 Q. We went back and forth a couple times.</p> <p style="text-align: right;">Page 26</p>	<p>1 are a little easier to read. 2 A. I do see that, yeah. 3 Q. It says 2005 e-mail? 4 A. That does say 2005 there. 5 Q. Okay. Now, actually, I want to turn back 6 to the second page of the e-mail, Exhibit 198. 7 A. Second page, okay, I'm there. 8 Q. And you'll see in the center of the page 9 there's an e-mail from Bill Lee, dated July 14th, 10 2005? 11 A. It's about a third of the way down. 12 Q. About. 13 A. July 14th, yes. Yes, I do believe I see 14 that. 15 Q. Do you recall this particular e-mail? 16 MS. ANDERSON: Review it. 17 THE WITNESS: I better check this. I might 18 have to go back and look at -- when it comes to 19 specific questions, because the changes are so 20 interleaved here, I have trouble keeping track of 21 who saying what. Okay, I've -- I've scanned this. 22 I think if -- when you ask specific questions, I 23 might want to try and figure out who exactly said 24 what in response to what. 25 BY MR. NORTON:</p> <p style="text-align: right;">Page 28</p>
<p>1 That's quite all right. 2 So you started at Google in July of 2005, 3 correct? 4 A. I think that's correct. 5 MR. NORTON: All right. I'm going to hand 6 you what previously had been marked as Exhibit 198. 7 It might not be the best copy, but this is an e mail 8 string, but at the top, it's an e mail from Andy 9 Rubin to you; is that correct? 10 (Exhibit 198 previously marked for 11 identification.) 12 THE WITNESS: Well, like you said, this 13 isn't great, but it looks like it looks like 14 that. I can't read it very well, but I think I can 15 read that much. 16 BY MR. NORTON: 17 Q. And the date on this e mail, which I think 18 is a little easier to read, is July 15th, 2005; is 19 that right? 20 A. I think that's correct. The five is not 21 on my copy, isn't is kind of blended into the 22 other grade, but I think it's a five. 23 Q. And if you look down to the first e mail 24 in the string, which refers to a 12:26 p.m. e mail 25 by Tim Lindholm. Do you see that? The other dates</p> <p style="text-align: right;">Page 27</p>	<p>1 Q. Sure, the specific pending question is, do 2 you remember this e mail? 3 A. No, I don't recall this e mail. 4 Q. If you can turn back to the second page. 5 A. Okay. 6 Q. The e mail that I directed you to 7 previously, the July 14 e mail from Mr. Lee 8 A. I do see that. 9 Q. it starts off, "Andy, it was nice 10 talking with you today"? 11 A. Uh huh. 12 Q. And then I don't have any questions about 13 that one. I just want to orient so that there's 14 was other one above it where Mr. Rubin responds. Do 15 you see that? 16 A. Yes. 17 Q. All right. And he says, "Thanks, Bill, 18 Josh, and Tim, we love your thoughts. Have time for 19 coffee? Andy." Do you see the P.S.? 20 A. Uh huh. 21 Q. It says, "Tim, I owe you an update since 22 our last meeting at Android." And then there is a 23 smiley face. What was the last meeting between you 24 and Mr. Rubin at Android? 25 A. When I was at Sun, I attended a meeting</p> <p style="text-align: right;">Page 29</p>

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1 with Android with Android, the company, which was
2 at this point, a tiny startup, that where we
3 discussed the possibilities of Android and Sun
4 working together in one form or another. I don't
5 remember when this meeting was, but I know there
6 was there was such a meeting.

7 Q. And you say the possibility of Android and
8 Sun working together, do you have a more specific
9 recollection of what was discussed, what the nature
10 of the two companies working together would be?

11 A. Again, I run the risk of getting into Sun
12 confidential things. This was these were this
13 is me discussing, as a Sun employee and with some
14 other people, I don't want to tread on some kind of
15 confidential stuff unless you want me to do so.

16 Q. You may tread on some confidential stuff as
17 distinguished from privileged, but if there's things
18 you consider to be confidential, you may divulge
19 that in the deposition. (inaudible due to coughing)

20 A. My recollection was that this was a very
21 that when the meeting with Android was was a
22 group of people coming from Sun in a mixed group
23 of people, just a very exploratory discussion with
24 this company that we didn't that we had just
25 well, I don't actually know. I had just learned

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1 I don't know what we thought, but I believe that I
2 had just learned that this company existed.
3 And it was the meeting with them was a
4 very typical one where Sun would where Sun
5 would where Sun would have a meeting where Sun
6 would meet with the company and try to figure out if
7 there was potentially any business with them, or
8 anything we can do together.

9 Q. At the time that you met with well, when
10 you had this meeting at Android, I assume Mr. Rubin
11 was there, correct?

12 A. Yes, I think he was there.

13 Q. And was Rich Miner also there?

14 A. I don't remember. I don't know Rich at all
15 well.

16 Q. And in the context of that meeting, was
17 there any discussion of Android taking the license
18 from Sun?

19 A. I only well, I I only recall in
20 general terms. I think that there was some
21 discussion about whether the work that Android was
22 doing at that time would benefit by by a
23 technology agreement with Sun that would allow
24 Android to use Sun's Sun's code, for instance,
25 for some aspect of the Java technology.

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1 So it wasn't this was not a matter of
2 something specific, like a license. It was a very
3 exploratory thing about much more an exploratory
4 thing of trying to figure out whether whether
5 I think much more to the point was whether
6 whether Android would benefit by using Sun source
7 code in the pursuit of whatever their product plans
8 were at the time.

9 Q. Okay. I'm going to ask you try to focus a
10 little more on my questions.

11 A. Okay, sorry, sorry.

12 Q. Again, I understand you have information to
13 share, but I do want you to focus on the information
14 I was asking for. Which is in the context of those
15 conversations the conversation you had at Android
16 with Mr. Rubin and perhaps others, was there
17 discussion of Android taking a license from Sun, yes
18 or no?

19 MS. ANDERSON: Objection, form.

20 MR. LISI: Asked and answered.

21 MS. ANDERSON: You don't need to accept
22 instructions on how to answer a question.

23 MR. NORTON: Please limit yourself to
24 proper objections.

25 MS. ANDERSON: Well, actually, it's

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1 improper to instruct a witness how they must answer
2 a question, and so I do have to object to that
3 because you might mislead the witness.

4 BY MR. NORTON:

5 Q. Mr. Lindholm, do you recall the question?

6 A. Could you please restate it given the
7 recent discussion?

8 BY MR. NORTON:

9 Q. I'll do it again. At the meeting that you
10 attended with Mr. Rubin and perhaps others, was
11 there any discussion of Android taking a license
12 from Sun, yes or no?

13 MS. ANDERSON: Objection, form.

14 MR. LISI: Join.

15 THE WITNESS: I believe that there was a
16 discussion of the possibility that Android might
17 well, that Android might enter into an agreement. I
18 don't want to say license because that's too
19 specific, but there was discussion that Android
20 might enter into an agreement with Sun so as to able
21 to use Sun's source code in Android products.

22 BY MR. NORTON:

23 Q. And the agreement that was discussed was a
24 component of the agreement that was being discussed,
25 a license?

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9 (Pages 30 - 33)

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1 you tell me what you meant when wrote that?
 2 A. No, I'm not sure what I meant by that.
 3 Q. And you went on to say, "They are only
 4 somewhat aware of new licensing, and JCP
 5 implications are still somewhat worried about
 6 tainting and such stuff." Can you tell me what you
 7 meant when you wrote, "They are still somewhat
 8 worried about tainting and such stuff"?
 9 A. I would have to speculate. I don't recall
 10 writing that.
 11 Q. Now, you concluded this e mail by writing
 12 to yourself, "I'm going to get in all possible loops
 13 around this project."
 14 A. Yes, I see that there.
 15 Q. Now, subsequent to July 15th, 2005
 16 THE REPORTER: Fred, can we take a quick
 17 break, my battery is frozen.
 18 MR. NORTON: Sure.
 19 THE VIDEOGRAPHER: The time is now
 20 a m., and we are going off the record.
 21 (Recess taken.)
 22 THE VIDEOGRAPHER: The time is now
 23 a m. We are back on the record. This marks the end
 24 of Disk 1 to the deposition of Tim Lindholm. The
 25 time is now 10:52 a m., and we are going back off

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1 the record.
 2 (Recess taken.)
 3 THE VIDEOGRAPHER: This marks the beginning
 4 of Disk 2 to the deposition of Tim Lindholm. The
 5 time is 11:12 a m. We are on the record.
 6 BY MR. NORTON:

7 Q. So after July 15, 2005, where you had
 8 written in Exhibit 526, you were going to get in all
 9 possible loops on this project. You said that in
 10 that exhibit?
 11 A. I'm looking at that now, yes.
 12 Q. And then that's what you wrote at the end
 13 of the e mail to yourself, Exhibit 526?
 14 A. Well, this is this is an e mail that I
 15 don't recall writing, but it's in this e mail which
 16 I don't dispute.
 17 Q. All right. Subsequent to July 15, 2005,
 18 you engaged in brainstorming with Mr. Rubin about
 19 Android, correct?
 20 MS. ANDERSON: Objection, form.
 21 MR. LISI: Join.
 22 THE WITNESS: After after July 15, I
 23 think I did have some discussions with with
 24 Mr. Rubin. I don't remember details about them or
 25 how many, for instance, but I think there were

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1 some.
 2 BY MR. NORTON:
 3 Q. And you attended Google Product Strategy
 4 meetings concerning Android, correct?
 5 MS. ANDERSON: Objection, form.
 6 MR. LISI: Join.
 7 A. I attended meetings. Google Product
 8 Strategy meeting, I'm not I don't re I don't
 9 remember what exactly that purpose is. Google's
 10 meetings meeting names change over time pretty
 11 frequently, and I don't remember exactly what that
 12 meeting was about.
 13 BY MR. NORTON:
 14 Q. Well, you attended at least one meeting
 15 with Sergei Brenn (phonetic), Larry Page, and Mr.
 16 Rubin, about Android, correct?
 17 MR. LISI: Object to the form.
 18 THE WITNESS: I well, I believe I
 19 attended a meeting I believe I attended a meeting
 20 in roughly this timeframe, 2000 late 2005, that
 21 Larry and Sergei were present at, and if I remember
 22 correctly, Android was discussed.
 23 BY MR. NORTON:
 24 Q. And you made suggestions to Mr. Rubin of
 25 some employees that you thought would be good

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1 recruits to join the Android team, correct?
 2 A. I don't remember doing that.
 3 Q. Did you not suggest to Mr. Rubin that he
 4 should interview Nedim Fresco (phonetic)?
 5 A. If I remember correctly, Nedim came came
 6 to us. Thinking that maybe you know, maybe he
 7 should come to Google. And I think I I think I
 8 recall passing that on to Andy as as somebody he
 9 might want to talk to.

10 MR. NORTON: Let's look at what was
 11 previously marked as Exhibit 16. I'm sorry,
 12 Exhibit 308.
 13 THE REPORTER: Okay.
 14 (Exhibit 308 previously marked for
 15 identification.)
 16 MS. ANDERSON: Thank you.
 17 BY MR. NORTON:
 18 Q. Exhibit 308, at the top, is an e mail from
 19 yourself to Mr. Rubin; is that correct?
 20 A. I haven't I haven't read this yet. Just
 21 from looking at the addressing, it would appear to
 22 be so.
 23 Q. All right. And it's a somewhat long
 24 e mail, but I just want to look at the last
 25 paragraph of the portion from you to Mr. Rubin,

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Highly Confidential - Attorneys' Eyes Only

<p>1 Q. You sent this e mail on August 6, 2010; is 2 that right?</p> <p>3 A. I believe that to be true.</p> <p>4 Q. Would you please begin reading at, "Hi, 5 Andy." And read the entire e mail out loud for the 6 record.</p> <p>7 MS. ANDERSON: Objection. We state all of 8 our objections and preserve our right on appeal. 9 You may read the face of this e mail.</p> <p>10 THE WITNESS: Okay. Well, can I begin with 11 "Attorney work product, Google confidential", which 12 is also in the e mail. And it goes, "Hi, Andy, this 13 is a short pre read for the call at 12:30. In Dan's 14 earlier e mail, he didn't give you a lot of context 15 for the visceral reaction that we got. What we have 16 actually been asked to do by Larry and Sergei, is to 17 investigate what technical alternatives exist to 18 Java, or Android and Chrome. We've been over a 19 bunch of these and think that they all suck. Think 20 they all suck. We conclude that we need to 21 negotiate a license for Java under the terms we 22 need. That said, Allen Eustace said that the threat 23 of moving off Java hit Safra Katz hard. We think 24 there's value in the negotiation to put forward a 25 most credible alternative, the goal being to get</p> <p style="text-align: right;">Page 102</p>	<p>1 were no there were no investigations. 2 BY MR. NORTON:</p> <div style="border: 1px solid black; padding: 5px;"> <p>3 Q. For the record, my question was not so 4 limited. When you wrote, "We've been over a bunch 5 of these and think they all suck". Who thought 6 "they all sucked"?</p> <p>7 MS. ANDERSON: Objection, form. And also 8 caution the witness and instruct him not to answer 9 to the extent responding to the question would 10 require you to reveal a separate communication with 11 Google counsel or require you to reveal work you did 12 at the direction of Google counsel, as part of the 13 investigation.</p> <p>14 THE WITNESS: So so the we the going 15 over what we thought about them was entirely done on 16 the direction of Google counsel. There was no such 17 work being done independently, not being done under 18 the direction of counsel. So I don't think I can 19 answer anything there.</p> </div> <p>20 BY MR. NORTON:</p> <p>21 Q. What were the specific alternatives that 22 you have investigated for Android?</p> <p>23 MS. ANDERSON: Objection, form. And also 24 objection on the basis of attorney client, 25 work product privilege. To the extent responding to</p> <p style="text-align: right;">Page 104</p>
<p>1 better terms and price for Java. It looks to us 2 that Obj C provides the most credible alternative in 3 this context, which should not be confused with us 4 thinking we should make the change. What we're 5 looking for from you are reasons why you hate this 6 idea, whether you think this is a nonstarter for 7 negotiation purposes and whether you think there is 8 anything we missed in our understanding of the 9 option. Tim and Dan".</p> <p>10 Q. Thank you. So when you wrote, "We've been 11 asked to investigate what technical alternatives 12 exist for Java and Android and Chrome, can you tell 13 me what technical alternatives you looked at?</p> <p>14 MS. ANDERSON: Objection. Instruct the 15 witness not to answer on the grounds of 16 attorney client privilege or work product to the 17 extent responding to the question requires you to 18 reveal work that you did at the direction of counsel 19 or communications you had with counsel for Google in 20 confidence.</p> <p>21 THE WITNESS: So the investigation and the 22 technical alternatives was strictly done on the 23 request of counsel, was done with the understanding 24 of the work product. So outside of outside of 25 those things covered by by that situation, there</p> <p style="text-align: right;">Page 103</p>	<p>1 this question would require you to reveal 2 communications with Google counsel in confidence or 3 work done under the direction of Google counsel, I 4 instruct you not to answer on the grounds of 5 privilege.</p> <p>6 THE WITNESS: Once again, the work we 7 the work we did on this was entirely done under the 8 direction of counsel. There was no work done 9 outside of that or for any other purpose, so I 10 cannot answer that question either.</p> <p>11 BY MR. NORTON:</p> <p>12 Q. What were the technical alternatives you 13 investigated to Java for Chrome?</p> <p>14 MS. ANDERSON: Objection, form. Also 15 object on the basis attorney client, work product 16 privilege. Instruct the witness not to answer to 17 the extent responding would require you to reveal 18 communications with Google's counsel in confidence 19 or work that you did at the direction of Google.</p> <p>20 THE WITNESS: Again, the work that we did 21 relating to Chrome was entirely done under the 22 direction of counsel and was work product. We we 23 did no such work outside of direction of counsel on 24 alternatives to Chrome.</p> <p>25 BY MR. NORTON:</p> <p style="text-align: right;">Page 105</p>

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